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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,285	01/31/2001	Shane Kuipers	Haworth Case 306	1964

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/773,285

Applicant(s)

KUIPERS ET AL.

Examiner

Yvonne M. Horton

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-13, 15, 16 and 19-24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 13, 14 and 25-28 is/are rejected.
- 7) ☐ Claim(s) 4, 5, 7, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,6,14 and 25-28 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,037,538 to BROOKS in view of US Patent #6,158,19 to ACKERLY et al. In reference to claims 1 and 14, BROOKS discloses the use of a panel arrangement for an office furniture including a support/connector part panel structure (20), a panel (16) and an edge frame member (21) attached thereto; wherein the frame member includes a fixing channel having opposing spaced apart channel walls (51,52). The channel thickness, as seen in figure 8, is smaller than the panel (16), see figure 13, thickness prior to insertion therein and the walls (52) of the channel section (21) being deflectable to have a tight-fitting contact with the panel, column 4, lines 25-28. In further regards to claims 6 and 16, BROOKS also discloses the use of undercuts (54) to define a juncture between the channel walls (51,52) and side wall (50). BROOKS discloses the basic claimed arrangement except for the panel being glass. ACKERLY et al. teaches that it is known in the art to provide an office furniture with a glass panel (164). Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the arrangement of BROOKS with the glass panel of ACKERLY et al. in order to provide the office with a space that is viewable. Further, regarding claim 14, the panel (16) of BROOKS is supported by connector parts (52). Hence, the modification of BROOKS by ACKERLY et al. would obviously have connector parts (52)

Art Unit: 3635

that too would support the glass panel (164) of ACKERLY et al. Regarding claim 25, the support structure (20) maintains the panel/glass panel in a fixed orientation. In reference to claim 26, neither BROOKS nor ACKERLY et al. discloses the type of material used to form the edge rail. Although they are silent in this regard, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select the known material on the basis of its suitability for the use intended as an obvious matter of design choice. For instance, if a sturdier fit is needed perhaps a metal member would be used; whereas, if a less rigid fit is desired, a plastic member would be used. Regarding claim 27, the support structure (20) carries the weight of the panel/glass (164), as modified, by ACKERLY et al. In reference to claim 28, although BROOKS discloses his edge rails at the tops of the panel/glass members, it would have been obvious to one having ordinary skill in the art at the time the invention was made that the mere rearranging of essential parts of an invention involves only routine skill in the art. Hence, the members of BROOKS are capable of being positioned vertically without diverting from the scope of the invention.

Claims 2-3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #6,037,538 to BROOKS in view of US Patent #6,158,179 to ACKERLY et al. and US Patent #6,314,691 to TAKAGI et al. Regarding claims 2, BROOKS discloses the use of a panel arrangement for an office furniture including a panel (16) and a rigid frame member (21) attached thereto; wherein the frame member includes a fixing channel having opposing spaced apart channel walls (51). The channel thickness, as seen in figure 8, is smaller than the panel (16) thickness prior to insertion therein and

Art Unit: 3635

the walls (51) of the channel section (21) being deflectable to have a tight-fitting contact with the panel, column 4, lines 25-28. BROOKS also discloses the use of undercuts (54) to define a juncture between the channel walls (51) and side wall (50). BROOKS discloses the basic claimed arrangement except for the panel being glass. ACKERLY et al. teaches that it is known in the art to provide an office furniture with a glass panel (164). TAKAGI et al. teaches the use of projections (18) formed on the inside of a channel member (3) to retain a panel therein. Hence, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the arrangement of BROOKS with the glass panel of ACKERLY et al. and the projections of TAKAGI et al in order to provide the office with a space that is viewable and to ensure that the panel is retained securely in position. Regarding claims 3, the projections of TAKAGI et al. directly contact the panel member; however, the projection does not have a peak. Although the projection of TAKAGI et al. does not have a peak, rounding projections such that a peak is formed is old and very well known in the art. Further, the nature of the material used to for the channels of TAKAGI et al. and the projections of TAKAGI et al. allow for the deflectability of the other channel wall opposite the projections. Also, the channel of BROOKS is deflectable on both sides. Hence, the addition of the projection would not hinder the deflectability of the BROOKS channel. Thus, it would have been obvious to one having ordinary skill in the art to round the projection of TAKAGI et al. to for a peak in order to create and ease of insertion of the panel member within the channel while also providing the assembly with resistance in

maintaining the panel in place. The compressibility of the projection is determined by how tight or snug the panel is desired or required to fit within the channel member

Allowable Subject Matter

Claims 8-13,15,16 and 19-24 are allowed.

Claims 4,5,7,17 and 18 remain as being objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 12/13/04 have been fully considered but they are not persuasive.

Regarding the applicant request for an interview, the examiner apologizes for not being able to grant the requested interview. However, perhaps an interview at a later date can be arranged.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In reference to the applicant's argument that it would not be obvious to modify BROOKS with ACKERLY et al. because ACKERLY requires the use of a single window and the examiner has ignored the teachings of ACKERLY et al., ACKERLY et al. is a supplemental reference and BROOKS is the base reference. BROOKS details all of the

Art Unit: 3635

requirements of the claim except for the inclusion of a glass panel. Glass panels are old and very well known in the room partition and interior frame art. Hence, the mere substitution of a panel that is opaque, with a glass or transparent panels is clearly within the general skill of a worker in the art. Substituting the panel of BROOKS for the glass panel of ACKERLY et al. in no way interferes with the operation of the raceway of BROOKS. Surely the raceway of BROOKS would remain operational and out of view from the user and others.

In response to applicant's argument that the glass panel of ACKERLY et al. would not function as intended if used in the system of BROOKS or that ACKERLY is only for use as a cover tile, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the support structure supply rigidity) are not recited in the rejected claim(s). The claims merely require support and orientation, there is no mention of rigidity. Although the claims are interpreted in light of the specification, limitations from the specification

Art Unit: 3635

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In reference to the examiner's use of phrases, she is allowed any phraseology desired as long as the terms are associated as art equivalents.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YMH

3/7/05